

REMARKS/ARGUMENTS

Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

Upon entry of the above amendments, claims 1-43 have been cancelled. New claims 44-61 have been added. Support for these amendments may be found throughout the specification. No new matter has been added as a consequence of these amendments.

For at least the following reasons, the claims are believed to be patentable over the cited references.

Claims 1, 3-8, 10-24 and 28-43 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The claims as amended distinctly claim a microcellular foam formed from a specific isocyanate-terminated prepolymer, a second polyester and a chain extender having a specified hydrolysis properties. Accordingly, it is submitted that the pending claims are in full compliance with 35 U.S.C. §112, second paragraph.

Claim 9 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,602,079 ("Vinches"). Claims 1, 3-8, 10-24 and 28-43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Vinches in view of U.S. Patent 5,840,782 ("Limerkens"). The pending claims are believed to be patentable for at least the following reasons.

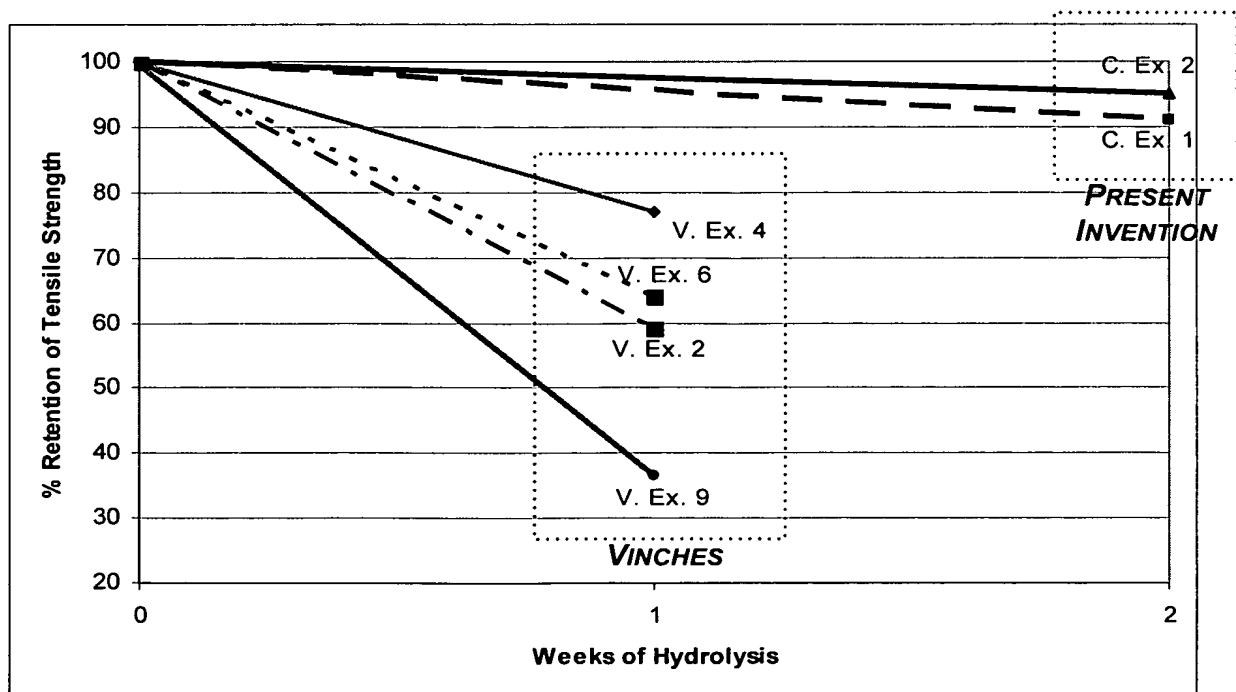
Preliminarily, Applicants submit that claim 9 has been cancelled and comparable new claim 57 is directed to a prepolymer consisting of several specific components which is not anticipated, under 35 U.S.C. §102(b), by the disclosure of Vinches. Accordingly, this ground of rejection should be withdrawn.

With regard to the 35 U.S.C. §103 rejection, Applicants submit that even if one were to combine Vinches and Limerkens in the manner suggested by the Examiner, it would not result in a foam, let alone a microcellular foam. The skilled artisan would readily recognize that the dimer containing components of Vinches would not readily foam using water as a blowing agent. In contrast, the polyester polyols of Limerkens, which contain ethylene oxide, are well suited for being foamed by water. Accordingly, the skilled artisan would not be motivated to combine the aspects of Limerkens and Vinches as asserted by the Examiner without the aid of impermissible hindsight reconstruction.

Furthermore, the microcellular foams of the present invention provide exceptional hydrolysis results. The following graph compares the reported results for the elastomers from Vinches with the microcellular foams from the present invention. As you consider these result, it should be noted that because of the open nature (increased surface area, capillary action, etc..) of a cellular elastomer vs. a non-porouous elastomer one would expect the cellular elastomer would have significantly inferioir hydrolysis resistance. However, in comparable tests, the microcellular (*i.e.*, porouous elastomer) foams of the present invention had higher hydrolysis results after 2-weeks than the non-porouous elastomers of Vinches had after only 1-week. Furthermore, it is reasonabe to assume that none of the non-porouous elastomers of Vinches would even have ***at least 60% of its initial tensile strength after 2-weeks*** as required in the present claims. Moreover, if Vinches were to be formed into a foam as asserted by the Examiner, it is presumed that all of the hydrolysis results would be even lower still.

Hydrolysis Results

Porouos Microcellular Foams of the Present Invention *versus* Non-Porouous Elastomers of Vinches



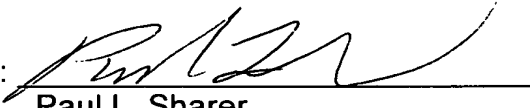
Graph notes: The graph compares "retention of the load at break" of Vinches, which was tested at 70°C at 100% humidity for 1-week (see col. 7, l 14-18) vs. the "tensile strength" of the present invention, which was tested also at 70°C at > 98% humidity.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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